

115TH CONGRESS
2D SESSION

H. R. 6692

To require the Secretary of Homeland Security to use alternatives to detention for certain vulnerable immigrant populations, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 31, 2018

Mr. BROWN of Maryland (for himself and Mrs. WATSON COLEMAN) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To require the Secretary of Homeland Security to use alternatives to detention for certain vulnerable immigrant populations, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Alternatives to Deten-
5 tion Act of 2018”.

6 **SEC. 2. ALTERNATIVES TO DETAINING UNDOCUMENTED IN-**
7 **DIVIDUALS.**

8 (a) IN GENERAL.—The Secretary of Homeland Secu-
9 rity shall establish programs that provide alternatives to

1 detaining individuals under the immigration laws (as de-
2 fined in section 101(a)(17) of the Immigration and Na-
3 tionality Act (8 U.S.C. 1101(a)(17))), whether such deten-
4 tion is pending a decision on whether the individual is to
5 be removed from the United States or after the issuance
6 of a removal order. The programs shall provide for a con-
7 tinuum of supervision mechanisms and options, including
8 community-based supervision and community support.
9 The Secretary may contract with nongovernmental com-
10 munity-based organizations to provide services under such
11 programs, which may include case management services,
12 appearance assistance services, and screenings of individ-
13 uals who have been detained.

14 (b) DETERMINATION OF VULNERABLE POPULATION
15 OR CAREGIVER STATUS REQUIRED.—

16 (1) IN GENERAL.—Not later than 48 hours
17 after taking an individual described in subsection (a)
18 into custody, the Secretary or the immigration judge
19 shall make a determination whether an individual
20 may participate in an alternatives to detention pro-
21 gram and determine the appropriate level of super-
22 vision.

23 (2) SPECIAL RULE.—If the individual is mem-
24 ber of a vulnerable population described in sub-
25 section (c), is a parent of a child under 18 years of

1 age, or is dependent caregiver or a family caregiver,
2 the individual may not be detained and must be
3 placed in an alternatives to detention program that
4 is a community-based supervision program.

5 (3) EXCEPTIONS.—Alternative to detention pro-
6 grams shall not be used—

7 (A) for individuals detained under section
8 236A of the Immigration and Nationality Act
9 (8 U.S.C. 1226a); or

10 (B) when release on bond or recognizance
11 is determined to be a sufficient measure to en-
12 sure appearances at immigration proceedings
13 and public safety.

14 (c) VULNERABLE POPULATION.—In determining
15 whether to place a detainee in an alternatives to detention
16 program, the Secretary shall consider whether the de-
17 tainee—

18 (1) is an asylum seeker or victim of torture or
19 trafficking;

20 (2) has special religious, cultural, or spiritual
21 considerations;

22 (3) is pregnant or nursing;

23 (4) is under 21 years of age or older than 60
24 years of age;

1 (5) identifies as gay, lesbian, bisexual,
2 transgender, or intersex;

3 (6) is a victim or witness of a crime;

4 (7) has a mental disorder or physical disability;

5 or

6 (8) has been determined by an immigration
7 judge or the Secretary of Homeland Security to be
8 experiencing severe trauma or to be a survivor of
9 torture or gender-based violence, based on informa-
10 tion obtained during intake, from the individual's at-
11 torney or legal services provider, or through credible
12 self-reporting.

13 (d) COORDINATOR OF ALTERNATIVES TO DETEN-
14 TION AND FAMILY REUNIFICATION.—

15 (1) IN GENERAL.—The Secretary of Homeland
16 Security shall establish in the Department of Home-
17 land Security the position of Coordinator of Alter-
18 natives to Detention and Family Reunification (“Co-
19 ordinator”). The Coordinator shall be selected by the
20 President and shall be appointed by, and report di-
21 rectly to, the Secretary. Subject to the availability of
22 appropriations, the Secretary shall make available to
23 the Coordinator such personnel, funds, and other re-
24 sources as may be appropriate to enable the Coordi-
25 nator to carry out the Coordinator’s mission.

1 (2) MISSION AND DUTIES OF COORDINATOR.—

2 (A) MISSION.—The Coordinator’s mission
3 shall be to work with the Executive depart-
4 ments (as defined in section 101 of title 5,
5 United States Code) to coordinate—

6 (i) the use of alternatives to detention
7 programs; and

8 (ii) the reunification of parents with
9 children separated from them by the Sec-
10 retary at or near a port of entry into the
11 United States, or within 100 miles of an
12 international border of the United States.

13 (B) DUTIES OF COORDINATOR.—

14 (i) IN GENERAL.—The Coordinator
15 shall serve as the primary point of contact
16 within the executive branch with the Con-
17 gress, State and local governments, the
18 private sector, and community leaders re-
19 garding the policies and programs de-
20 scribed in clauses (i) and (ii) of subpara-
21 graph (A). Working with the input of the
22 Executive departments, the Coordinator
23 shall be responsible for managing informa-
24 tion flow, requests for actions, and discus-
25 sions regarding such policies and programs

1 with the Congress, State and local govern-
2 ments, the private sector, and community
3 leaders.

4 (ii) REPORT.—Not later than 30 days
5 after the date of the appointment of the
6 Coordinator, the Coordinator shall issue a
7 report to the Congress on the status of—

8 (I) detentions under the immi-
9 gration laws (as defined in section
10 101(a)(17) of the Immigration and
11 Nationality Act (8 U.S.C.
12 1101(a)(17))) pending a decision on
13 whether an individual is to be re-
14 moved or after the issuance of a re-
15 moval order; and

16 (II) reunification of parents and
17 children separated by the Secretary at
18 or near a port of entry into the
19 United States, or within 100 miles of
20 an international border of the United
21 States.

22 (C) DUTIES OF EXECUTIVE DEPART-
23 MENTS.—The heads of the Executive depart-
24 ments—

1 (i) shall respond promptly to any re-
2 quest by the Coordinator;

3 (ii) shall, consistent with applicable
4 law, provide such information as the Coor-
5 dinator deems necessary to carry out the
6 Coordinator's mission; and

7 (iii) otherwise shall cooperate with the
8 Coordinator to the greatest extent prac-
9 ticable to facilitate the performance of the
10 Coordinator's mission.

11 (3) CONSTRUCTION.—Nothing in this sub-
12 section shall be construed to impair or otherwise af-
13 fect—

14 (A) the authority granted by law to an Ex-
15 ecutive department or the head thereof;

16 (B) the functions of the Director of the Of-
17 fice of Management and Budget relating to
18 budget, administrative, or legislative proposals;
19 or

20 (C) the chain of command over the Armed
21 Forces provided in section 162(b) of title 10,
22 United States Code.

23 (4) SUNSET.—This subsection shall cease to be
24 effective on the date that is 3 years after the date
25 of the enactment of this Act.

1 (e) PARENTS AND OTHER CAREGIVERS.—For pur-
2 poses of this section:

3 (1) The term “dependent caregiver” means an
4 individual who lives with, and provides more than
5 one-half of the financial support required by, a fam-
6 ily member who is—

7 (A) under 18 years of age; or

8 (B) unable to engage in substantial em-
9 ployment due to a physical or mental health
10 condition or disability.

11 (2) The term “family caregiver” means an indi-
12 vidual who lives with, and provides more than one-
13 half of the personal care required by, a family mem-
14 ber who is—

15 (A) under 18 years of age; or

16 (B) unable to engage in substantial em-
17 ployment due to a physical or mental health
18 condition or disability.

19 (3) The term “family member”, with respect to
20 an individual receiving personal care services or fi-
21 nancial support, means an individual who is—

22 (A) a parent;

23 (B) a spouse;

24 (C) a child;

25 (D) a step-family member; or

1 (E) an extended family member.

2 (4) The term “parent” means—

3 (A) a biological or adoptive parent of a
4 child, whose parental rights have not been relin-
5 quished or terminated under State law or the
6 law of a foreign country; or

7 (B) a legal guardian under State law or
8 the law of a foreign country.

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